

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	3:CR-18-0097
	:	
v.	:	(Judge Mariani)
	:	
ROSS ROGGIO	:	(Electronically filed)

EX PARTE MOTION FOR SUBPOENA
CUSTOMS AND BORDER PROTECTION OFFICER
FELNEY AUGUSTINE

AND NOW comes the Defendant, Ross Roggio, by his attorney, Gino Bartolai, Esquire, and moves this Honorable Court for an Order permitting the issuance and service of a Subpoena. This request is made pursuant to Rules 17 (b) of the Federal Rules of Criminal Procedure. In support thereof, it is respectfully averred as follows:

1. On March 20, 2018, Roggio was charged in an Indictment with conspiracy to commit an offense against the United States, in violation of Title 18, United States Code, Section 371; violations of the Arms Export Control Act, Title 22, United States Code, Sections 2778(b) and (c); and the International Emergency Powers Act, Title 50, United States Code, Sections 1702 and 1705(c); smuggling goods from the United States, in violation of Title 18 United States Code Sections 554 and 2; wire fraud, in violation of Title 18, United

States Code Section 1342; and money laundering, in violation of Title 18 United States Code, Sections 1956(a)(2)(A) and 2.

2. On March 23, 2018, Roggio appeared before Magistrate Judge Karoline Mehalchick for an initial appearance and arraignment and entered a plea of not guilty to the charges.

3. On April 3, 2019, the undersigned was appointed as counsel for Roggio pursuant to the Criminal Justice Act, Title 18, U.S.C. § 3006A.

4. On February 26, 2017, Roggio was detained at JFK International Airport, subjected to custodial interrogation, and his person property seized and subsequently searched in violation of the Fourth and Fifth Amendments.

5. Roggio has filed pretrial motions challenging the above referenced searches and seizures and a Suppression Hearing on the motions is scheduled to commence on February 9, 2021.

6. Roggio is seeking to subpoena Customs and Border Protection Officer Felney Augustine, who was on duty on February 26, 2017, and who initially encountered Roggio as he attempted to clear customs and who referred Roggio for a secondary inspection based upon a CTR One Day Lookout Hit. Augustine participated in the initial detention of Roggio and witnessed the seizure of his personal property. Roggio submits that Officer Augustine will testify relative to

the facts and circumstances of the detention, the interrogation, and seizure of Roggio's personal property.

7. The undersigned counsel submits that the witness's presence is necessary in order to properly represent Roggio and to effectuate Roggio's rights under the Fourth and Fifth Amendments.

8. The undersigned counsel has attached the necessary statement pursuant to 28 C.F.R. § 16.23(C).

9. Pursuant to Rule 17 (b) of the Federal Rules of Criminal Procedure, Roggio requests that the incurred costs of said Subpoena be borne by the Government.

WHEREFORE, the Defendant, Ross Roggio, respectfully requests that said Subpoena be issued under the direction of this Court, ordering that Customs and Border Protection Officer Felney Augustine appear at Roggio's Suppression Hearing and remain until excused.

Respectfully submitted,

Date: January 6, 2021

s/ Gino Bartolai

Gino Bartolai, Esquire
Attorney ID# PA 56642

238 William Street
Pittston, Pennsylvania 18640
(570) 654-3572
E-mail: Bartolai@ptd.net
Attorney for Ross Roggio

Schedule of Subpoena

CBP OFFICER FELNEY AUGUSTINE
US CUSTOMS AND BORDER PROTECTION
JOHN F. KENNEDY INTERNATIONAL AIRPORT
NEW YORK - PORT 4701

BUILDING #77, 2ND FLOOR, EXECUTIVE OFFICE
JAMAICA, NEW YORK, 11430

(718) 487-5164

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STATEMENT PURSUANT TO 28 C.F.R. § 16.23(C)

Roggio is seeking to subpoena Customs and Border Protection Officer Felney Augustine, who was on duty on February 26, 2017, and who initially encountered Roggio as he attempted to clear customs and who referred Roggio for a secondary inspection based upon a CTR One Day Lookout Hit. Augustine participated in the initial detention of Roggio and witnessed the seizure of his personal property. Roggio submits that Officer Augustine will testify relative to the facts and circumstances of the detention, the interrogation, and seizure of Roggio's personal property.

Respectfully submitted,

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